

it is like some of those abominable JANCE. marble in Westminster Abbey. I did not detect any argument that a man who lets my friend, not being a tenant, lets it under an implied condition that it is habitable. This implied condition, the law will support. Very nice implications, however, arise as to the right of a tenant to quit, when he finds that the house is not habitable. The case, the name of which is prefixed to this article, will throw some light on the subject.

It was an action for use and occupation to recover the balance of five weeks' rental of a furnished house. The defendant pleaded the general issue. At the trial before Lord Abinger, an agreement in writing was proved as follows:—"Brighton, September 14th, 1842. Mr. John Smith, of No. 24, St. James's-street, agrees to let, and Sir Thomas Marrable agrees to take the house, No. 5, Brunswick-place, at the rate of eight guineas per week, for five or six weeks, at the option of the said Sir Thomas Marrable. Signed, Thomas Marrable, John Smith. The rent to commence on the 15th of September. T. M., J. S." The defendant entered on the occupation of the house under this agreement on Friday, September 16, 1842, and on the following day the defendant's wife informed the plaintiff that the house was infested with bugs, and a person was sent by the plaintiff to try and get rid of them, but Lady Marrable, not finding the means used for that purpose successful, wrote to the plaintiff's wife as follows:—"No. 5, Brunswick-place, September 19, 1842. Lady Marrable informs Mrs. Smith that it is her determination to leave the house in Brunswick-place as soon as she can take another, paying a week's rent, as all the bedrooms occupied but one are so infested with bugs, that it is quite impossible to remain." On the completion of the week, the defendant sent the key to the plaintiff and removed into another house. The judge told the jury that in point of law the house must be taken to have been let on the implied condition that it was fit for habitation, and that if they thought the defendant had left the house on account of the nuisance being so intolerable as to make it uncomfortable to live in it longer, they ought to find for the defendant; but if they were of opinion he had left merely because he preferred another residence, and made the bugs an excuse for leaving the plaintiff's house, then they ought to find a verdict for the plaintiff. The jury found for the defendant.

In Hilary Term Mr. HAYWARD moved for a new trial on the ground of misdirection, and of the improper reception of evidence. The second ground was supported by technical arguments only, and therefore we omit further notice of it. The first amounted to this:—the nuisance complained of by the defendant is no defence to the action, which was founded on a written agreement, and if it really existed should have been made the subject of a cross action.

Mr. BARON PARKER, in giving judgment, said "The first question is whether, in point of law, every person who lets a house must be taken to have done so under an implied condition that it is in a habitable state. Now there is a case of *Edwards v. Etherington*, Ry. & Moo., 268, which is very nearly in point. That was an action of assumpsit for use and occupation, against a tenant from year to year, who had quitted without notice; and the defence was, that the premises were, by reason of their dilapidated state, useless to the defendant, and unfit to reside in. Lord Tenterden held that to be a good defence, and told the jury that "slight circumstances would not suffice, but that such serious reasons might exist as would justify a tenant in quitting at any time, and that it was for them to say whether in that case any such did exist." A new trial was afterwards moved for, on the ground of misdirection; and the Court of Queen's Bench refused to disturb the verdict. There is also a case of *Collins v. Barrow*, 1 Moo. & Rob., 112, in which a party who had taken a house under a written agreement, by which he was to occupy it for three years, had quitted at the expiration of six months without any notice, and the landlord had brought an action for use and occupation, to recover the rent accruing after that time. The defence was, the house was unfit for occupation on account of insufficient drainage; and Mr. Baron Bayley said, "I do not see that the fact of the tenancy

in this case being under a written agreement is material. In any case the tenant is bound to pay rent during the time for which he has contracted, unless he satisfies the jury that, under the circumstances, he was justified in quitting. I think, however, that in point of law he will be free from his obligation to reside on the premises, if he makes out to the satisfaction of the jury, that the premises were noxious and unwholesome to reside in, and that this state arose from no default of his own." These cases quite warrant the position, that a tenant may immediately relinquish his tenancy of a house which is incumbered with a nuisance of so serious a nature as to make it uncomfortable and unfit to live in. There was no contract in this case on the plaintiff's part, that the house was free from the nuisance; the contract was by the defendant, that he would take the house of the plaintiff at a certain rent, and then the law attaches a condition that the house shall be in such a fit state as for the description of house might be reasonably expected." In this view the other judges concurred, Lord Abinger saying:—"I am glad that authorities have been found to support this defence, though, for my own part, I think the case one which common sense alone should enable us to decide. A man who lets a ready-furnished house, does so on implied condition or obligation, that it is in a fit state for occupation. Suppose the defendant had discovered the fact, that previous tenants had quitted the house in consequence of a person having recently died there of the plague, would not the law have justified him in leaving as soon as he discovered the fact? I entertain no doubt on the subject; and in this case I only wonder that the defendant remained so long, and gave the landlord so much opportunity of trying to remove the nuisance." The Court was against Mr. Hayward on the second ground also, and the rule, therefore, was refused.

We do not know that any remarks of ours could render this case more clear, or more instructive, unless it be that a warning to the reader, not to be misled by the fact that the house in the case of *Smith v. Marrable* was a furnished one, is necessary.

SINGULAR ANECDOTE OF GEORGE III.

It occurs to us to introduce a biographical anecdote of an individual eminent in the annals of Freemasonry, recounted by a friend at our elbow, when just now handing for our inspection a very old masonic certificate, embellished with emblems which he thought might suggest some hints appropriate to the subject which so largely occupies our paper this week. The late Thomas Dunkerley, of Hampton Court Palace, who was Supreme Grand Master of the order of Masonic Knights Templars, and Provincial Grand Master for Hampshire, &c., was personally known to him in the year 1795, and he is probably one of the very few now living who were fully cognizant of the remarkable incident which, in procuring for that gentleman the notice and friendship of George III., raised him from comparative obscurity to wealth and station.

Thomas Dunkerley was an only child, brought up by his mother, who resided in the vicinity of Portsmouth, and who, passing as a widow, earned a somewhat scanty livelihood by the labour of her hands. When about sixteen he entered the navy, and his uniform good conduct procured for him, when about twenty-four years of age, the rank of a warrant officer, viz. gunner, on board the *Alexander*, a ship of the line of 74 guns. He was in this capacity when the father of our friend became acquainted with him, and who being a military officer, was embarked on board that ship with a detachment of troops about the year 1757, to garrison the Island of Minorca, in the Mediterranean, then taken from Spain. It was in consequence of there being many masons, both on board the *Alexander* and among the troops, that the intimacy we have spoken of sprang up, and which became of so lasting a nature, as to have ceased but with Mr. Dunkerley's life. At Minorca these friends separated, each continuing his career in different branches of the service; that of Mr. Dunkerley was, however, interrupted in the following manner: about the year 1776, and while still serving as a gunner in the fleet, the death of his mother, Mrs. Dunkerley, took

place at the same village where she had so long lived on the produce of her humble industry. It was within a day of the close of her life that she entreated the attendance of the rector of the parish to administer the sacrament, and this religious rite being concluded, made to him the extraordinary declaration, that Thomas Dunkerley was the natural son of the late king, George II. The manner and circumstances under which this asseveration was made impressed the minister with its truth, and he, in conscience and justice to a man from whom so important a fact had been most carefully concealed, and who, moreover, had raised himself to respectability by bravery and good conduct, forwarded a narrative of the case through a channel sufficiently influential to reach the ear of George III. The worthy clergyman who was thus interesting himself on Mr. Dunkerley's behalf had refrained from acquainting him that he had done so, lest vague hopes and disappointment might be the result. It was not, therefore, until a command for his personal attendance upon the king at St. James's had been signified to him on ship-board, that he became aware of the cause for so singular and unexpected an honour. At the audience no other persons were present, and Mr. Dunkerley described the king as having at once advanced close to him, and after a scrutiny of his features extending his hand, saying, "I want no further proof; uncle, I am glad to have found and to see you." This recognition, almost spontaneous, and caused no doubt by the almost identical likeness borne by Mr. Dunkerley to George II., proved irrevocable; no one ventured to dispute a relationship thus acknowledged, and all the branches of the royal family concurred in kind acts of encouragement towards him. The king assigned to him a suite of apartments in Hampton Court Palace, the pay of an admiral, and a most liberal pension; he bore also the royal arms, with the bar of illegitimate descent, and used the royal liveries. George III., with his characteristic determination, was strongly inclined to distinguish Mr. Dunkerley by titles, and other modes at the disposal of royalty, but he was already growing into years, had not married very consistently or happily, and had no children for whom to be solicitous; further, previous habits would have rendered much of formality irksome, and he wisely preferred quiet enjoyment of the abundance that had been showered upon him; a large portion of which he distributed in acts of benevolence. Our friend, who relates these facts, well remembers Thomas Dunkerley, and when a boy was in the habit of accompanying his father on visits to him, and particularly recollects the striking likeness he bore to the impress on the coin of the preceding reign. The collateral evidence of the truth of Mrs. Dunkerley's declaration as to the paternity of her son was simply her having been a servant in a menial capacity at one of the palaces previous to his birth; but her retirement to absolute seclusion without provision, and studious concealment of the case until the hour of her death, is one of those extraordinary circumstances difficult to reconcile with the ordinary impulses of nature. Mr. Dunkerley died at a venerable age, towards the close of the last century, leaving no children or known relatives.

SIR CHRISTOPHER WREN.—During the building of St. Paul's Cathedral, a country carpenter applied to the overseer of the works for employment as a carver. The overseer smiled at the man's temerity, on hearing that he had never worked in London. Sir Christopher, who was present, called the man to him, and inquired what work he had been employed on in the country. "Pig-troughs," was the answer. "Well, then," said Sir Christopher, "let us see a specimen of your workmanship in a sow and pigs." The man returned in a few days, having performed his task with such exquisite skill, that he was immediately employed, and some of the finest and the most intricate carving in the cathedral was executed by him.

The church of Ormskirk, near Liverpool, has two steeples, one of which is pointed the other square. This irregularity in architecture is thus accounted for:—two sisters, of the name of Orme, resolved to provide the town with a church, but they could not agree as to the form of the steeple. It was at length decided that each of their fancies should be carried into effect by having two steeples, built according to their different tastes.